

Calendar No. 1949

86TH CONGRESS
2d Session

SENATE

REPORT
No. 1879

HARRY KALOIAN

AUGUST 22, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 9417]

The Committee on the Judiciary, to which was referred the bill (H.R. 9417) for the relief of Harry Kaloian, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to pay to Harry Kaloian, of Detroit, Mich., the sum of \$624.84 in full settlement of his claims against the United States based on damage to his automobile in an accident which occurred while he was operating it on official business on February 21, 1956.

STATEMENT

The Postmaster General interposes no objection to the enactment of H.R. 9417.

The facts and conclusions regarding this claim are contained in House Report No. 1987 on H.R. 9417, and are as follows:

On February 21, 1956, Mr. Kaloian, a career window clerk in the post office, was requested by his supervisor to deliver a set of keys to a carrier who was delivering the mail on his route, and in order to avoid delay in the delivery of the mail, since Government transportation was not available and time

did not permit the employee to walk or use public transportation, Mr. Kaloian was authorized to use his privately owned automobile to accomplish the purposes desired. Mr. Kaloian had carried out similar requests on other occasions. While en route to deliver the keys to the carrier, Mr. Kaloian was involved in an accident with another privately owned vehicle which resulted in damage to the Kaloian automobile and personal injury to the postal employee. It also appears that Mr. Kaloian was of the opinion that the driver of the other automobile was negligent and that this view was concurred in by Donald W. Loria, the designated attorney for the Bureau of Employees' Compensation, to whom Mr. Kaloian's notice of injury had been referred. Upon advice of the attorney Mr. Kaloian filed suit. The case was tried in a State court before a jury, and it was their verdict that the plaintiff had no cause of action.

Mr. Kaloian sought to file a claim under the Federal Tort Claims Act provisions of title 28, but it was turned down since those provisions do not extend to cases such as this.

This is a situation where Mr. Kaloian has no means, apart from a private bill, of gaining relief. On the facts of this case this committee feels that the Government has a moral responsibility to compensate this unfortunate employee. Accordingly, the committee recommends that the bill be considered favorably.

The committee concurs in the action of the House of Representatives on this legislation and, therefore, recommends that the bill, H.R. 9417, be considered favorably.

Attached hereto and made a part hereof is the report submitted by the Postmaster General on this legislation.

OFFICE OF THE POSTMASTER GENERAL,
Washington, D.C., June 17, 1960.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to the request for a report on H.R. 9417, a bill for the relief of Harry Kaloian.

This bill will authorize the payment of \$624.84 to Harry Kaloian, of Detroit, Mich., in full settlement of his claim "against the United States arising out of damage to his automobile as a result of an accident which occurred while he was operating it on official business on February 21, 1956."

The files of this Department indicate that on February 21, 1956, Mr. Kaloian, a career window clerk in the Post Office, was requested by his supervisor to deliver a set of keys to a carrier who was delivering the mail on his route, and that in order to avoid delay in the delivery of the mail, since Government transportation was not available and time did not permit the employee to walk or use public transportation, Mr. Kaloian was authorized to use his privately owned automobile to accomplish the purposes desired. Mr. Kaloian had

carried out similar requests on other occasions. While en route to deliver the keys to the carrier, Mr. Kaloian was involved in an accident with another privately owned vehicle which resulted in damage to the Kaloian automobile and personal injury to the postal employee. It also appears that Mr. Kaloian was of the opinion that the driver of the other automobile was negligent and that this view was concurred in by Donald W. Loria, the designated attorney for the Bureau of Employees' Compensation, to whom Mr. Kaloian's notice of injury had been referred. Upon advice of the attorney, Mr. Kaloian filed suit. The case was tried in a State court before a jury, and it was their verdict that the plaintiff had no cause of action.

When Mr. Kaloian's administrative claim for damages was filed with the Department under the Federal Tort Claims Act, it was disallowed because claims of this kind are not cognizable under the Federal Tort Claims Act (28 U.S.C. 2671-2680).

Since Mr. Kaloian was acting in good faith and in the interest of the Government and since there is some doubt as to his negligence, this Department interposes no objection to the enactment of H.R. 9417.

Due to the urgency this report is being submitted prior to clearance through the Bureau of the Budget.

Sincerely yours,

ARTHUR E. SUMMERFIELD,
Postmaster General.

○

